

**EXHIBIT A**

**AFFIDAVIT OF SPECIAL AGENT KRISTIN KOCH**

I, Kristin Koch, do hereby declare and state:

1. I am a Special Agent with the Federal Bureau of Investigation (“FBI”). I have been employed by the FBI since June 2003. In October 2003, I was assigned to the Boston Division of the FBI. I am currently assigned to the Organized Crime Task Force, Squad C-3, where I work on investigations relating to organized crime, labor racketeering, and art crime. I am also a member of the FBI’s Art Crime Team, a specialized group of agents deployed across the United States that is dedicated to addressing art and cultural property crime cases. Accordingly, I have received specialized training in art and cultural property investigations. I am a “federal law enforcement officer” as defined in Rule 41(a)(2)(C) of the Federal Rules of Criminal Procedure, that is, a government agent who is engaged in enforcing the criminal laws of the United States and within a category of officers authorized by the Attorney General to request a search warrant.

2. As an FBI Special Agent, I have participated in investigations involving organized crime, labor racketeering, violent crime, illegal distribution of controlled substances, firearms offenses, interstate gambling offenses, loan sharking, wire fraud, money laundering, and art crimes, including theft, fraud, and illicit trafficking, to include thefts from museums and the concealment of stolen items. In the course of these investigations, I have been the affiant on and participated in the execution of numerous search warrants of personal residences, vehicles, computers, cellular phones, businesses, e-mail accounts, and persons, for evidence relevant to ongoing criminal investigations. Through my training, education, and experience, including the debriefing of witnesses, I have become familiar with, among other criminal activities, the manner in which individuals commit theft and transport stolen items interstate.

3. I submit this affidavit in support of a Verified Complaint for Forfeiture *in Rem* against the following property:

- a. Manuscript signed Hernando Cortés on April 27, 1527 regarding payment for rose sugar (the “Cortés Manuscript”).

4. This affidavit is based on my personal knowledge, training and experience, information provided by other law enforcement officers and government employees, and information gathered during this investigation including interviews of witnesses, the review of documents, and conversations with other law enforcement officers.

5. This affidavit does not contain all the information known to me and other law enforcement officers regarding the investigation, but only those facts sufficient to establish probable cause for the forfeiture of the Cortés Manuscript.

6. As set forth below, there is probable cause to believe that the Cortés Manuscript was unlawfully removed from the Archivo General de la Nación de México (“General Archives of Mexico”) sometime before 1993, and thereafter transported in foreign and interstate commerce, including, but not limited to transportation from Florida to Massachusetts in 2022. A photograph of the Cortés Manuscript is attached hereto at Exhibit 1.

7. 18 U.S.C. § 2314 provides in pertinent part that “[w]hoever transports, transmits, or transfers in interstate or foreign commerce any goods, wares, merchandise, securities or money, the value of \$5,000 or more, knowing the same to have been stolen, converted or taken by fraud,” shall be subject to criminal penalties.

8. 18 U.S.C. § 2315 provides in pertinent part that “[w]hoever receives, possesses, conceals, stores, barter, sells, or disposes of any goods, wares, or merchandise, securities, or money of the value of \$5,000 or more ... which have crossed a State or United States boundary

after being stolen, unlawfully converted, or taken, knowing the same to have been stolen, unlawfully converted, or taken,” shall be subject to criminal penalties.

9. Pursuant to 18 U.S.C. § 981(a)(1)(C), “any property, real or personal, which constitutes or is derived from proceeds traceable,” to a violation of 18 U.S.C. §§ 2314 and/or 2315 is subject to forfeiture to the United States. Both 18 U.S.C. §§ 2314 and 2315 are forfeiture predicates through 18 U.S.C. § 981(a)(1)(C), which, by reference, incorporates offenses listed in 18 U.S.C. § 1961(1), including 18 U.S.C. §§ 2314 and 2315.

10. Accordingly, probable cause exists that the Cortés Manuscript is subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) as property, real or personal, which constitutes or is derived from proceeds traceable to a violation of 18 U.S.C. § 2314 and/or 18 U.S.C. § 2315.

#### **PROBABLE CAUSE**

11. On June 6, 2022, a representative of the General Archives of Mexico, located in Mexico City, Mexico, contacted the FBI and reported that the Archives had located a document that was currently up for auction on the website of RR Auction that they believed was stolen from their files. The document was signed by Hernando Cortés.

12. Since June 2022, I, along with other law enforcement officers, have gathered information and reviewed records for the purpose of obtaining additional information about the theft of the Cortés Manuscript, and how it came into RR Auction’s possession.

13. In short, the investigation revealed that the Cortés Manuscript is authentic and established probable cause that it was unlawfully removed from the General Archives of Mexico, and then later transported in foreign and interstate commerce.

14. On June 29, 2022, United States Magistrate Judge Donald L. Cabell of the United States District Court for the District of Massachusetts issued a seizure warrant for the Cortés

Manuscript (22-mj-1255-DJC), which was executed on June 30, 2022. The Cortés Manuscript is currently in the possession of the FBI in Boston, Massachusetts.

#### **A. THE CORTÉS MANUSCRIPT**

15. The Cortés Manuscript is a payment order, which on one side reflects the payment to be made and, on the other side, certifies that the payment has been received. It specifically reflects authorization, on April 27, 1527, for the purchase of rose sugar for the pharmacy in exchange for twelve gold pesos, and the receipt of those funds.

16. The Cortés Manuscript is an original document, handwritten in Spanish, and measures approximately 8.5 x 6 inches. I am informed that it was written in a form and style typical of administrative documents of the 16<sup>th</sup> century. Archival analysis has established that the Cortés Manuscript was written in iron gall ink on handmade rag pulp paper, both characteristic of that period of Mexican colonial history.

17. The Cortés Manuscript reads, on the front side, after a red cross:

Palacios Rubios dad a maestre Francisco doce pesos de oro de lo que coree que son para çierta açucar rosado para la botica que lleva y tomad carta de pago para  
[strikethrough]//su//[between the lines]vuestro//descargo/ fiso en XXVII de abril de  
1UDXXVII años. Hernando Cortes [signature]. Asistencia [signature].

And, on the back side, with missing writing in the margin “miento de maestre Francisco de XII pesos”:

ressebi yo maestre Francisco de vos Palacios Rubios los doce pesos de oro en esta otra parte contenidas/y son por el açucar rosado oy por bos / dado / lo firme de mi nombre / oy XIII de mayo 1527 años. Maestro Francisco [signature]

18. RR Auction’s website further described the Cortés Manuscript as follows:

#### ***Incredibly rare payment for "rose sugar" by conquistador Cortes***

Spanish conquistador (1485-1547) who initiated the conquest of the Aztec Empire on behalf of King of Castile and Holy Roman Emperor Charles V, and, in so doing, assumed an instrumental role in the first phase of the Spanish colonization of the Americas. Excessively rare manuscript DS in Spanish, signed “Hernando

Cortes,” one page, 8.5 x 6, April 27, 1527. Document issued to his majordomo, Nicolas de Palacios Rubios, instructing him to give to Maestre Francisco twelve gold pesos for certain pink sugar that he is carrying for the pharmacy and to take note for his accounts. In full (translated): “Palacyos Rubyos: give Master Francisco twelve gold pesos, of the gold that is circulating, which are for a certain rose sugar for the apothecary that he keeps, and get a receipt for your discharge. Done on the 27th of April of the year 1527.”

The reverse bears a handwritten receipt acknowledging fulfillment of the request, in full (translated): “I, Master Francisco, received from you, Palasio Rubios, the twelve gold pesos referred to on the other side, and they are for the rose sugar. And I signed it with my name as the truth, today, the 13th of May of the year 1527.” Docketed along the edge and verified by Cortes’s ‘witness of assistance.’ In fine condition. The consignor notes that this document was displayed in a museum in the Midwest for over 20 years.

19. The investigation has revealed that the Cortés Manuscript is from the General Archives of Mexico, Fondo Hospital de Jesus, Volume 362, Folio 203. According to information provided by Mexican authorities, on December 24, 1929, the files, documents, and papers collected at the Hospital de Jesus were declared national property and catalogued in the General Archives of Mexico. Inventories of the most important documents from the Archives of the Hospital de Jesus contain a general description of Volume 362, Folio 203, stating that, among other documents from the year 1527 that relate to an expedition to Central America, it contains 39 signatures of Hernando Cortés.

20. At some point, the General Archives of Mexico marked ninety-one pages in Volume 362, Folio 203, with an identification mark (folio page number) in red crayon, mostly in the upper right. Analysis of the Cortés Manuscript suggests that the folio page number has been intentionally removed, because the paper is thinner in the upper right and has traces of red crayon as well.

21. Analysis of the Cortés Manuscript also indicates remnants of other paper consistent with that used to bind documents in Volume 362, Folio 203. One of the corners of the Cortés Manuscript also appears to have been torn or removed.

22. In October 1993, a microfilm reproduction was made of the Hospital de Jesus collection, including Volume 362, Folio 203. Based on a review of that microfilm reproduction, fourteen pages were missing from Volume 362, Folio 203, at the time it was reproduced on microfiche. Subsequent review of the folio indicates additional documents are missing. The General Archives of Mexico believes that the Manuscript was stolen from their collection before 1993.

23. A manuscript that remains in the Fondo Hospital de Jesus collection records that twelve pesos were delivered to Master Francisco for the purchase of rose sugar for the navy's pharmacy in connection with an expedition.

24. I am aware that over several years, colonial-era documents, including those signed by Cortés, that are believed to have been stolen from the General Archives of Mexico have been placed for auction in the United States. A number of these documents have been recovered and repatriated to Mexico, including 15 handwritten papers recovered and returned to Mexico in 2021.<sup>1</sup>

25. I am informed that the Mexican Federal Law on Archaeological, Artistic and Historical Monuments and Zones<sup>2</sup> defines "historic monuments" to include "[d]ocuments and files that belong or have belonged to the offices and archives of the Federal, state and municipal

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<sup>1</sup> See, e.g., McGreevy, Nora, *Colonial-Era Papers Stolen From Mexico's National Archive Return Home*, SMITHSONIAN MAGAZINE, Sept. 28, 2021 (available at <https://www.smithsonianmag.com/smart-news/mexico-documents-colonial-cortes-stolen-recovered-180978767/>); Jorgic, Drazen, *Amateur Sleuths Traced Stolen Cortés Papers to U.S. Auctions. Mexico Wants Them Back*, REUTERS, May 13, 2021 (available at <https://www.reuters.com/world/mexico-wants-back-stolen-corts-papers-auctioned-us-2021-05-13/>).

<sup>2</sup> An English translation of "Ley Federal Sobre Monumentos Y Zonas Arqueologicos, Artisticos E Historicos" is available on the UNESCO Database of National Cultural Heritage Laws, at <https://en.unesco.org/cultnatlaws/list>.



governments” and “[o]riginal manuscript documents related to the history of Mexico and the books, brochures and other documents printed in Mexico or abroad during the XVI through the XIX centuries due to their rareness and importance for Mexican history deserve to be kept in the country.” Ch. III, Art. 36, Sections II and III. The Federal Law further provides, as sanctions, that “[a]ny party who takes possession of an item that is an archaeological, historic or artistic monument without consent of the party, who under the law, is authorized to determine its disposition shall receive a prison sentence of two to ten years and a fine of three thousand to fifteen thousand pesos” (Ch. VI, Art. 51), and that “[a]ny party who by whatever means seeks to remove or removes from the country an archaeological, historic or artistic monument without the permission of the competent Institute, shall receive a prison sentence of two to twelve years and a fine of one hundred to fifty thousand pesos.” Ch. VI, Art. 53.

#### **B. CONSIGNMENT OF THE CORTÉS MANUSCRIPT**

26. The Cortés Manuscript was consigned for auction by RR Auction by an individual, R.N.,<sup>3</sup> who resides in Florida, pursuant to an agreement signed on May 5, 2022.

27. RR Auction is a domestic limited liability company registered in the State of Massachusetts under the name R & R Auction of Massachusetts LLC. RR Auction has offices in Massachusetts and New Hampshire.

28. R.N. shipped the Cortés Manuscript to RR Auction in Massachusetts, and it was later transported to RR Auction’s offices in New Hampshire. Communications between RR Auction personnel and R.N. occurred from Massachusetts.

29. In connection with RR Auction’s online auction of the Cortés Manuscript, as of June 8, 2022, 22 bids had been placed on Lot #168, the Cortés Manuscript, and the bid price was

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<sup>3</sup> The identify of R.N. is known to law enforcement.

at \$18,626. The auction was scheduled to end on June 15, 2022. After being contacted by the FBI, RR Auction agreed to withdraw Lot #168 from the auction and removed Lot #168 from their website.

30. R.N. did not provide RR Auction with any provenance documentation regarding the Cortés Manuscript but stated that he had purchased the Cortés Manuscript in 2019 at auction from Goldberg Coins and Collectibles (Goldberg) of Los Angeles, California, and, prior to that, the Cortés Manuscript had been held in a museum in Wichita, Kansas.

31. Further investigation revealed that the Cortés Manuscript had been on loan to the Museum of World Treasures, located in Wichita, from the collection of J.K.<sup>4</sup> J.K., the founder of the museum, is deceased and in 2019, J.K.'s family consigned the Cortés Manuscript to Goldberg. It is believed that J.K. purchased the Manuscript at auction in the early 1990s from an auction house that has since gone out of business.

32. Before the Cortés Manuscript was placed for auction in 2022, an autograph expert advised RR Auction that similar manuscripts signed by Cortés had been determined to have been stolen, and this manuscript was possibly also stolen. RR Auction had previously placed the Cortés Manuscript for auction in 2020, but it did not meet the reserve and was returned to R.N.

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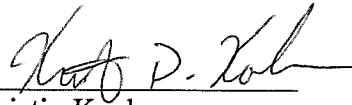
<sup>4</sup> The identify of J.K. is known to law enforcement.



**CONCLUSION**

33. Based on the information described above, probable cause exists to believe that the Manuscript signed by Hernando Cortés on April 27, 1527, regarding certain rose sugar constitutes or is derived from proceeds traceable to a violation of 18 U.S.C. §§ 2314 and/or 2315, and is subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C).

Signed under the pains and penalties of perjury, this 22 day of November, 2022

A handwritten signature in black ink, appearing to read "Kristin Koch", written over a horizontal line.

Kristin Koch

Special Agent, Federal Bureau of Investigation

# EXHIBIT 1

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